

FILED

VINCENT COX [State Bar No. 070511]
ELIZABETH L. SCHILKEN (State Bar No. 241231)
LEOPOLD, PETRICH & SMITH, P.C.
2049 Century Park East, Suite 3110
Los Angeles, California 90067-3274
Tel: (310) 277-3333 • Fax: (310) 277-7444

2009 JUN 24 PM 2:38

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

Attorneys for Plaintiff
BAGDASARIAN PRODUCTIONS, LLC

BY _____

CONFORMED COPY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PA

BAGDASARIAN PRODUCTIONS,
LLC, a California limited liability
company,

CASE NO. **CV09-4545(RZx)**

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:

Plaintiff,

v.

- (1) FEDERAL TRADEMARK
INFRINGEMENT;
- (2) FALSE DESIGNATION OF
ORIGIN AND FALSE
ADVERTISING UNDER
SECTION 43(a) OF THE
LANHAM ACT;
- (3) DILUTION UNDER SECTION
43(c) OF THE LANHAM ACT;
- (4) COMMON LAW TRADEMARK
INFRINGEMENT; and
- (5) UNFAIR COMPETITION
UNDER CAL. BUSINESS &
PROFESSIONS CODE §17200, *et*
seq.

BIG EYE RECORDS, aka BIG EYE
MUSIC, ORCHARD ENTERPRISES
NY, INC., a New York corporation, and
DOES 1-10, inclusive,

Defendants.

DEMAND FOR JURY TRIAL

Plaintiff Bagdasarian Productions, LLC, a California limited liability company,
(hereinafter "Bagdasarian"), by and through its undersigned counsel, for its complaint,
alleges as follows:

1 alleges as follows:

2
3 I. THE PARTIES.

4 1. Plaintiff Bagdasarian is a California limited liability company with its
5 principal place of business in Santa Barbara County, State of California.

6 2. Bagdasarian is informed and believes and thereon alleges that defendant
7 Big Eye Records, Inc., aka Big Eye Music ("Big Eye") is a business organization of
8 form unknown that maintains a corporate office at 13428 Maxella Avenue in Marina
9 del Rey, California.

10 3. Bagdasarian is informed and believes and thereon alleges that defendant
11 Orchard Enterprises NY, Inc. ("Orchard") is a New York corporation with its
12 principal place of business in New York City. Plaintiff is informed and believes, and
13 thereon alleges, that Orchard, operating under the trademark "The Orchard," licenses
14 and globally distributes songs and video titles through digital stores such as iTunes,
15 eMusic and Amazon.com, and through mobile carriers such as Verizon Wireless.

16 4. Bagdasarian is informed and believes and thereon alleges that DOES 1-
17 10, inclusive, are, and at all times relevant hereto were, employed and controlled by
18 defendants, and exercise substantial authority in devising and implementing policies
19 of defendants. The true names and capacities of the defendants sued as DOES 1-10,
20 inclusive, are unknown to Bagdasarian. The names and capacities, and relationships
21 of defendants named as DOES 1-10 will be alleged by amendment to this complaint
22 when they are known. Bagdasarian is informed and believes and thereon alleges that
23 said DOE defendants were at all times agents of the named defendants Big Eye and
24 Orchard, and of each other.

25
26 II. JURISDICTION AND VENUE

27 5. This is an action for trademark and service mark infringement, copyright
28 infringement and unfair competition arising under the laws of the United States,

1 Lanham Act, 15 U.S.C. §1051, *et seq.*, as well as under the common law and statutes
2 of the State of California.

3 6. This Court has subject matter jurisdiction under 28 U.S.C. §1338(a) and
4 (b), and under the Court's supplemental jurisdiction, 28 U.S.C. § 1367(a). Venue is
5 proper in this district pursuant to 28 U.S.C. §1391(b) in that Bagdasarian is informed
6 and believes, and alleges thereon, that defendants reside in this judicial district, and a
7 substantial part of the events or omissions giving rise to the claim occurred in this
8 judicial district, and a substantial part of the property that is the subject of the action is
9 situated within this judicial district.

10 11 III. FACTS COMMON TO ALL COUNTS

12 7. "Alvin and the Chipmunks" is the mark originated by plaintiff's
13 predecessor Ross Bagdasarian, Sr. Alvin and the Chipmunks is a famous, award-
14 winning music group, consisting of three singing animated chipmunks: Alvin, Simon
15 and Theodore. Since 1961, the members of the music group have also been portrayed
16 as animated characters, first in cartoons and later in CGI form. The music group,
17 including the members' distinctive singing styles, voices, and personalities, was
18 created by Ross Bagdasarian, Sr., who portrayed the manager of the group, "David
19 Seville", for many years after the group's creation.

20 8. Until his death in 1972, Ross Bagdasarian, Sr., performed the voices of
21 the Alvin and the Chipmunks music group. Alvin and the Chipmunks music
22 recordings have been and remain extremely popular, well-known to the public, and
23 have been awarded no fewer than three Grammy awards for songs which include "The
24 Chipmunk Song."

25 9. Plaintiff and its predecessors and their licensees have manufactured and
26 distributed audio-visual entertainment products, musical recordings, entertainment
27 services, and merchandise such as books, toys, games and clothing featuring Alvin
28 and the Chipmunks, and since at least 1959 they have used the famous "Alvin and the

1 Chipmunks” mark on one or more of such products in interstate commerce, including
 2 the State of California. Such products have also been distributed throughout the
 3 world, under license from plaintiff and its predecessors.

4 10. In addition to owning the common law mark “Alvin and the Chipmunks”
 5 in connection with a wide variety of entertainment products, services, and associated
 6 merchandise, plaintiff owns and utilizes the following federally registered marks:

- 7 • Registration No. 3,429,855 for “ALVIN AND THE CHIPMUNKS” in the
 8 field of audio-visual records and related goods (Class 9);
- 9 • Registration No. 3,421,801 for “ALVIN AND THE CHIPMUNKS” in the
 10 field of clothing (Class 25);
- 11 • Registration No. 3,425,740 for “ALVIN AND THE CHIPMUNKS” in the
 12 field of toys and games (Class 28); and
- 13 • Registration No. 2,935,726 for “ALVIN AND THE CHIPMUNKS” in the
 14 field of entertainment services, namely a series of TV cartoons (Class 41).

15 True and correct copies of these above-identified four (4) registrations are attached as
 16 Exhibit A. All of the aforesaid federal registrations of “ALVIN AND THE
 17 CHIPMUNKS” are registered on the Principal Register and are, thereby, prima facie
 18 valid service marks and trademarks of plaintiff.

19 11. The Alvin and the Chipmunks marks have acquired such goodwill,
 20 widespread fame, and secondary meaning that the public has come to associate the
 21 Alvin and the Chipmunks marks exclusively with a single source, *i.e.*, plaintiff.

22 12. Entertainment products created by the licensees of plaintiff or its
 23 predecessors include a prime time animated television series broadcast on CBS in
 24 1961 and 1962, entitled *The Alvin Show*, an animated television series produced
 25 between 1983 and 1991, entitled *Alvin and the Chipmunks*, a 1999 film entitled *Alvin*
 26 *and the Chipmunks Meet Frankenstein*, a 2000 film entitled *Alvin and the Chipmunks*
 27 *Meet the Wolfman*, and several television specials. In addition, in 2007, licensees of
 28 plaintiff released a live-action/CGI comedy film entitled *Alvin and the Chipmunks*

1 which plaintiff is informed and believes, and alleges on such information and belief,
2 generated over \$215 million in theatrical motion picture box office revenues in North
3 America, over \$350 million in theatrical motion picture box office revenues
4 worldwide, and sold more than 8 million DVDs in the U.S. and more than 12 million
5 DVDs worldwide. The soundtrack for the *Alvin and the Chipmunks* 2007 film was
6 released as a CD on November 20, 2007 (hereinafter sometimes "the Authorized
7 CD"), and has been sold widely throughout the United States, and internationally.
8 Approximately 1,000,000 copies of the Authorized CD have been sold in the United
9 States, and more than 1.7 million tracks from the Authorized CD have been legally
10 downloaded. A true copy of the soundtrack album Authorized CD packaging is
11 attached hereto, marked Exhibit B, and incorporated herein by this reference. It has a
12 suggested retail price of \$16.98 and Bagdasarian is informed and believes, and alleges
13 thereon, has been sold new through retail channels at prices ranging between \$9.95
14 and \$16.98. The Authorized CD referenced by Exhibit B has been sold through
15 ordinary commercial channels for musical recordings, including, but not limited to,
16 such retail outlets as Amazon.com, and others. Plaintiff is informed and believes, and
17 alleges thereon, that a substantial portion of the consumers of its Authorized CD
18 consist of young children, who are often incapable of closely examining CD
19 packaging to distinguish between genuine products such as those licensed by plaintiff,
20 and shoddy knockoff products such as those manufactured and/or distributed by
21 defendants.

22 13. Defendant Big Eye has produced and defendant Orchard has distributed
23 an album entitled "Renditions Of Alvin & The Chipmunks by Calvin & The
24 Chipmunk Rock Stars," which is a cheap knockoff that copies the Chipmunks
25 soundtrack album and confuses the public concerning its source of origin by using a
26 nearly identical set of songs as follows:
27
28

Calvin & the Chipmunk Rock Stars Track Listing		Alvin & the Chipmunks Track Listing	
Title	Track #	Title	Track #
Bad Day	2	Bad Day	1
The Chipmunk Song (Christmas Don't Be Late) (Dee Town Rock Mix)	5	The Chipmunk Song (Christmas Don't Be Late- DeeTown OG Mix)	2
Follow Me Now	8	Follow Me Now	3
How We Roll	4	How We Roll	4
Witch Doctor	1	Witch Doctor	5
		Come Get It	6
The Chipmunk Song (Christmas Don't Be Late) (Dee Town Rock Mix)	5	The Chipmunk Song (Christmas Don't Be Late- DeeTown Rock Mix)	7
Funkytown	3	Funkytown	8
Get You Goin'	6	Get You Goin'	9
Coast 2 Coast	9	Coast 2 Coast	10
Mess Around	10	Mess Around	11
		Only You	12
Ain't No Party	7	Ain't No Party	13
		Get Munk'd	14
Witch Doctor	1	Witch Doctor-Classic Version	15

1 The Chipmunk Song (Christmas Don't Be Late) (Dee Town Rock Mix)	5	The Chipmunk Song (Christmas Don't Be Late- Classic Version)	16
2 3 4 Bad Day (Instrumental Guitar Version)	11	Bad Day	17
5 6 Follow Me Now (Instrumental Guitar Version)	12	Follow Me Now	19

IV. DEFENDANTS' UNLAWFUL ACTS AND CONDUCT

12 14. Bagdasarian is informed and believes and thereon alleges that defendant
13 Big Eye is in the business of creating and marketing music and entertainment CDs and
14 DVDs, and defendant Orchard is in the business of distributing such products. Big
15 Eye and Orchard sell their products online at retailers such as Amazon.com, and
16 others.

17 15. Bagdasarian is informed and believes and thereon alleges that defendants
18 Big Eye and Orchard embarked upon a malicious and dishonest scheme shortly after
19 the commercial success of plaintiff's licensed 2007 film *Alvin and the Chipmunks*.
20 Specifically, Big Eye and Orchard embarked upon a plan to fabricate and distribute a
21 cheap knockoff of the Authorized CD containing 12 recordings which are the
22 compositions found on the Authorized CD that has sold approximately 1,000,000
23 copies, and been downloaded pursuant to commercial license more than 1.7 million
24 times.

25 16. In order to further the scheme to deceive the public into believing that its
26 unlicensed album was authorized, endorsed by, associated or affiliated with plaintiff
27 or its licensees, Big Eye entitled the album "Renditions Of Alvin & The Chipmunks
28 by Calvin & The Chipmunk Rock Stars" (the "Big Eye Album"), and recorded the

1 songs in a manner strikingly similar to the recordings on the licensed soundtrack. Big
 2 Eye and Orchard used advertising containing the Alvin and the Chipmunks trademark,
 3 intending to deceive members of the public into believing that they were authorized,
 4 endorsed, sponsored by, or otherwise affiliated with the plaintiff or its licensees.
 5 Attached hereto, marked Exhibit C, is a copy of the online advertising for the Big Eye
 6 Album. Big Eye and Orchard have sold the Big Eye Album in some of the same
 7 channels of commerce as plaintiff's Authorized CD, *e.g.*, such retailers as
 8 Amazon.com. The Big Eye Album has a list price of \$8.99.

9 17. Bagdasarian has never licensed, or otherwise authorized, the use of the
 10 Alvin and the Chipmunks trademarks or service marks to Big Eye or Orchard, or to
 11 any defendant.

12 13 V. FIRST CLAIM

14 Federal Registered Trademark and Service Mark Infringement 15 (by Plaintiff against all Defendants)

16 18. Bagdasarian restates each and every allegation contained in paragraph 1
 17 through 17 above, as though fully stated herein.

18 19. Since 1958, Bagdasarian and its predecessors have expended time,
 19 money and resources in developing the distinctive Alvin and the Chipmunks
 20 trademarks and service marks. Since at least 1959, Bagdasarian has marketed its
 21 Alvin and the Chipmunks trademarks and service mark through numerous Alvin and
 22 the Chipmunks entertainment products, services and merchandise in interstate
 23 commerce, including, but not limited to, California.

24 20. Bagdasarian has registered its valuable Alvin and the Chipmunks marks
 25 on the dates set forth in Exhibit A. Bagdasarian owns sole and exclusive rights to
 26 distribute, reproduce, and to publicly display the Alvin and the Chipmunks marks for
 27 products and service.

28 21. The distribution, reproduction, counterfeiting, and public display of the

1 Alvin and the Chipmunks marks by Big Eye and Orchard in connection with the
2 creation and marketing of the Big Eye Album has misled consumers and the general
3 public, including those in California, to believe that the Big Eye Album is authorized,
4 endorsed by, sponsored by, affiliated with, or otherwise connected to plaintiff. This
5 false association, intentionally created by defendants, is likely to cause confusion,
6 mistake and deception with the general public, including California residents.

7 22. The aforesaid acts of Big Eye, Orchard and defendants constitute
8 infringement of Bagdasarian's registered Alvin and the Chipmunks trademarks in
9 violation of Section 32(1) of the Trademark Act of 1946, as amended, 15 U.S.C.
10 §1114(1).

11 23. By reason of Big Eye's, Orchard's and defendants' acts as alleged,
12 Bagdasarian has suffered and will suffer damage to its business, reputation and good
13 will, and the loss of sales and profits that Bagdasarian would have made, but for
14 defendants' unethical and illegal acts.

15 24. Unless restrained and enjoined by this Court, Big Eye, Orchard and
16 defendants threaten to and will continue to do the acts complained of, all to
17 Bagdasarian's irreparable damage. It would be difficult to ascertain the amount of
18 compensation that would afford Bagdasarian adequate relief for such continuing acts,
19 and a multiplicity of judicial proceedings would be required. Thus, Bagdasarian's
20 remedies at law are not adequate to compensate it for the threatened injuries.

21 25. Bagdasarian is entitled to injunctive relief, both preliminary and
22 permanent, restraining Big Eye, Orchard and their agents, servants, employees and all
23 persons acting under, in concert with, or on behalf of, Big Eye or Orchard from using
24 Bagdasarian's Alvin and the Chipmunks trademarks in any channel of commerce and
25 in any geographical territory in the world.

26 26. As a direct and proximate result of Big Eye's and Orchard's conduct and
27 actions, and each of them, Bagdasarian has also suffered damages in an amount to be
28 proven in trial, plus interest at the legal rate thereon, but no less than \$1 million.

1 27. As a direct and proximate result of Big Eye's and Orchard's wrongful
2 conduct and actions, and each of them, Bagdasarian is informed and believes, and
3 alleges thereon, that Big Eye and Orchard have been unjustly enriched in the sum of
4 no less than \$1 million.

5 28. As a direct and proximate result of Big Eye's and Orchard's wrongful
6 conduct and actions, and each of them, Bagdasarian is entitled to restitution and a
7 complete disgorgement of any and all amounts of money, revenue, or income Big Eye
8 and Orchard have received as a result of their wrongful conduct as noted above, and
9 the allegations as alleged herein.

10 29. Pursuant to 15 U.S.C. §1117(b), the Court shall, unless the Court finds
11 extenuating circumstances, enter judgment for three times' defendants' profits or
12 Bagdasarian's damages, whichever is greater, together with a reasonable attorney's
13 fee.

14 15 VI. SECOND CLAIM

16 False Designation of Origin and False Advertising in Violation of Section 43(a)
17 of the Lanham Act, 15 U.S.C. §1125(a)

18 (by Plaintiff against all Defendants)

19 30. Plaintiff restates each and every allegation contained in paragraphs 1-29
20 above, as if fully stated herein.

21 31. Plaintiff and its predecessors have, during the past 50 years, spent
22 substantial time, money and resources in developing distinctive common law
23 trademarks in and to the term Alvin and the Chipmunks, for use in connection with
24 entertainment products and merchandise. In addition, plaintiff is the owner of the
25 registered Alvin and the Chipmunks trademarks, as set forth above.

26 32. Defendants, on and in connection with goods or services, and in the
27 advertising for the Big Eye Album, have used in commerce words, terms, names,
28 symbols and devices, false advertising and false designations of origin which are

1 likely to cause confusion, to cause mistake, or to deceive members of the public as to
2 the affiliation, connection, or association of defendants with Bagdasarian, and to cause
3 confusion, to cause mistake, or to deceive as to the origin, sponsorship or approval of
4 Big Eye's and Orchard's goods, services, and commercial activities by members of
5 the general public.

6 33. The confusion, mistake or deception referred to herein arises out of the
7 aforesaid acts of defendants, and constitutes false designation of origin and unfair
8 competition in violation of Section 43(a) of the Trademark Act of 1946, as amended,
9 15 U.S.C. §1125(a).

10 34. The aforesaid acts were undertaken willfully and with the intention of
11 causing confusion, mistake or deception.

12 35. By reason of defendants' acts as alleged, Bagdasarian has and will suffer
13 damage to its business reputation and good will, and the loss of sales and profits that
14 Bagdasarian would have made but for Big Eye's and Orchard's acts.

15 36. Unless restrained and enjoined by this Court, Big Eye and Orchard
16 threaten to and will continue to do the acts complained of, all to Bagdasarian's
17 irreparable damage. It would be difficult to ascertain the amount of compensation that
18 would afford Bagdasarian adequate relief for such continuing acts, and a multiplicity
19 of judicial proceedings would be required. Thus, Bagdasarian's remedy of law is not
20 adequate to compensate it for the threatened injuries.

21 37. Bagdasarian is entitled to injunctive relief, both preliminary and
22 permanent, restraining Big Eye and Orchard and their agents, servants, employees and
23 all persons acting under, in concert with, or on behalf of, Big Eye or Orchard from
24 using Bagdasarian's Alvin and the Chipmunks service mark and trademarks in any
25 channel of commerce and in any geographical territory in the world.

26 38. As a direct and proximate result of Big Eye's and Orchard's conduct and
27 actions, and each of them, Bagdasarian has also suffered damages in an amount to be
28 proven in trial, plus interest at the legal rate thereon, but no less than \$1 million.

1 44. As a result of the activities of plaintiff and its predecessors, the mark
2 Alvin and the Chipmunks has become famous in that it is widely recognized by the
3 general consuming public of the United States as a designation of source of the goods
4 and services of plaintiff.

5 45. The mark Alvin and the Chipmunks is distinctive, both inherently and
6 through acquired distinctiveness.

7 46. By its actions, Big Eye and Orchard have used plaintiff's famous Alvin
8 and the Chipmunks mark in commerce in a way that is likely to cause dilution by
9 blurring and/or dilution by tarnishment of the famous mark.

10 47. Big Eye's and Orchard's dilution of plaintiff's Alvin and the Chipmunks
11 trademarks was undertaken willfully and with the intention of causing dilution,
12 confusion, mistake, and deception.

13 48. By reason of Big Eye's and Orchard's acts as alleged, Bagdasarian has
14 and will suffer business to its business reputation and good will in the loss of sales and
15 profits that Bagdasarian would have made but for Big Eye's and Orchard's actions.

16 49. Unless restrained and enjoined by this Court, Big Eye and Orchard
17 threaten to and will continue to do the acts complained of, all to Bagdasarian's
18 irreparable damage. It would be difficult to ascertain the amount of compensation that
19 would afford Bagdasarian adequate relief for such continuing acts, and a multiplicity
20 of judicial proceedings would be required. Thus, Bagdasarian's remedy at law is not
21 adequate to compensate it for the threatened injuries.

22 50. Bagdasarian is entitled to injunctive relief restraining Big Eye and
23 Orchard, and their agents, servants, employees, and all persons acting under, in
24 concert with, or for Big Eye or Orchard, from using Bagdasarian's Alvin and the
25 Chipmunks trademark in any channel of commerce and in any geographical territory
26 in the world.

27 51. As a direct and proximate result of Big Eye's and Orchard's conduct and
28 actions, and each of them, Bagdasarian has also suffered damages in an amount to be

1 proven at trial, plus interest at the legal rate thereon, but no less than \$1 million.

2 52. As a direct and proximate result of Big Eye's and Orchard's wrongful
3 conduct and actions, and each of them, Bagdasarian is informed and believes, and
4 alleges thereon, that Big Eye and Orchard have been unjustly enriched in the sum of
5 no less than \$1 million.

6 53. As a direct and proximate result of the wrongful conduct of Big Eye and
7 Orchard, Bagdasarian is entitled to restitution and a complete disgorgement of any and
8 all amounts of money, revenue or income Big Eye and Orchard received as a result of
9 their wrongful conduct as noted above, and the allegations as alleged herein.

10 11 VIII. FOURTH CLAIM

12 Common Law Trademark Infringement

13 (by Plaintiff against all Defendants)

14 54. Plaintiff restates each and every allegation contained in paragraphs 1-53
15 above as if fully stated herein.

16 55. As alleged above, Big Eye's and Orchard's imitation and infringement of
17 the trademark rights of Bagdasarian and the Alvin and the Chipmunks trademark is
18 calculated to, and does in fact, deceive and mislead consumers of Bagdasarian's and
19 of Big Eye's and Orchard's products to utilizing or purchasing products advertised or
20 sold by Big Eye and Orchard in the belief that they originate with Bagdasarian to the
21 significant diminution of Bagdasarian's business and profits.

22 56. Unless restrained and enjoined by this Court, Big Eye and Orchard
23 threaten to and will continue to do the acts complained of, all to Bagdasarian's
24 irreparable damage. It would be difficult to ascertain the amount of compensation that
25 would afford Bagdasarian adequate relief for such continuing acts, and a multiplicity
26 of judicial proceedings would be required. Thus, Bagdasarian's remedies at law are
27 not adequate to compensate it for the threatened injuries.

28 57. Bagdasarian is entitled to injunctive relief, both preliminary and

1 permanent, restraining Big Eye and Orchard and their agents, servants, employees and
 2 all persons acting under, in concert with, or on behalf of, Big Eye or Orchard from
 3 using Bagdasarian's Alvin and the Chipmunks service mark and trademarks in any
 4 channel of commerce and in any geographical territory in the world.

5 58. As a direct and proximate result of Big Eye's and Orchard's conduct and
 6 actions, and each of them, Bagdasarian has also suffered damages in an amount to be
 7 proven in trial, plus interest at the legal rate thereon, but no less than \$1 million.

8 59. As a direct and proximate result of Big Eye's and Orchard's wrongful
 9 conduct and actions, and each of them, Bagdasarian is informed and believes, and
 10 alleges thereon, that Big Eye and Orchard have been unjustly enriched in the sum of
 11 no less than \$1 million.

12 60. As a direct and proximate result of Big Eye's and Orchard's wrongful
 13 conduct and actions, and each of them, Bagdasarian is entitled to restitution and a
 14 complete disgorgement of any and all amounts of money, revenue, or income Big Eye
 15 and Orchard have received as a result of their wrongful conduct as alleged herein.

17 IX. FIFTH CLAIM

18 Unfair Competition Under California Business & Professions Code
 19 §17200, *et seq.*, and 17500, *et seq.*

20 (by Plaintiff against all Defendants)

21 61. Plaintiff restates each and every allegation contained in paragraphs 1-60
 22 above as if fully stated herein.

23 62. The foregoing conduct by Big Eye and Orchard constitutes a violation of
 24 California Business & Professions Code §17200, *et seq.*, and 17500, *et seq.*, in that it
 25 constitutes false advertising, and illegal, fraudulent and unfair business practices
 26 which are, *inter alia*, likely to deceive a reasonable consumer.

27 63. Big Eye's and Orchard's aforesaid acts constitute representations and/or
 28 statements that are deceptive, untrue, and misleading, and which were undertaken

1 willfully and with the intention of causing confusion, mistake or deception.

2 64. Unless restrained and enjoined by this Court, Big Eye and Orchard
3 threaten to and will continue to do the acts complained of, all to Bagdasarian's
4 irreparable damage. It would be difficult to ascertain the amount of compensation that
5 would afford Bagdasarian adequate relief for such continuing acts, and a multiplicity
6 of judicial proceedings would be required. Thus, Bagdasarian's remedy at law is not
7 adequate to compensate it for injuries threatened.

8 65. Bagdasarian is entitled to injunctive relief restraining Big Eye and
9 Orchard, and their agents, servants, employees and all persons acting under, in concert
10 with, or for Big Eye or Orchard, from using Bagdasarian's Alvin and the Chipmunks
11 service mark and trademarks in any channel of commerce and in any geographical
12 territory in the world.

13 PRAYER FOR RELIEF

14 WHEREFORE, plaintiff Bagdasarian, a California limited liability company,
15 respectfully demands judgment in its favor, and as and against all defendants, and
16 each of them, as follows:
17

18 1. On counts 1 through 4, for general damages and compensation believed
19 to be in excess of \$1 million in accordance with the proof at the time of trial;

20 2. On counts 1 through 4, for special damages according to proof, but no
21 less than \$1 million;

22 3. On counts 1 through 4, for an order of equitable disgorgement of all
23 unjust enrichment received by defendants as a result of the wrongful acts and practices
24 described hereinabove in an amount accordance with proof at the time of trial, but
25 believed to be in excess of \$1 million;

26 4. On count 1, for defendants to be required to pay statutory damages in an
27 amount to be determined for their use of a counterfeit of plaintiff's registered
28 trademark under 15 U.S.C. §1117(c);

1 5. On counts 1 and 3, for treble damages in accordance with the Lanham
2 Act §1117(b);

3 6. On count 4, for punitive and exemplary damages under California law in
4 an amount sufficient to deter and make an example of defendants in accordance with
5 the proof at the time of trial;

6 7. On all counts, for prejudgment interest;

7 8. On counts 1-5, for preliminary and permanent injunctive relief enjoining
8 and requiring defendants, their officers, agents, servants, employees, attorneys,
9 parents, subsidiaries and related companies, and all persons acting for, with, by,
10 through or under them to:

11 (a) cease and desist from all use of plaintiff's service mark and
12 trademarks;

13 (b) delete from their computer files, menus, hard drives, servers,
14 diskettes, backups and websites any copies, simulations, variations or colorable
15 imitations thereof, and any use of the Alvin and the Chipmunks trademark;

16 (c) to be required to deliver up to plaintiff to be held for destruction at
17 the conclusion of this action any and all computer software, compact discs, inventory,
18 packaging, labels, sales material, press releases, promotional material, advertising
19 material, stationery, plates, products, goods, and other materials bearing the Alvin and
20 the Chipmunks trademark or artwork;

21 9. On counts 1-5, for attorneys' fees and costs of suit incurred in this action
22 as provided by 15 U.S.C. §1117(a), or as otherwise provided by law; and

23 10. For such other and further relief as the Court deems proper.
24
25
26
27
28

1 DATED: June 24, 2009

LEOPOLD, PETRICH & SMITH
A Professional Corporation

2
3
4 By:


VINCENT COX

ELIZABETH L. SCHILKEN
Attorneys for Plaintiff

BAGDASARIAN PRODUCTIONS, LLC

1 DEMAND FOR JURY TRIAL

2 Plaintiff hereby requests trial by jury on all claims asserted.

3
4 DATED: June 24, 2009

LEOPOLD, PETRICH & SMITH
A Professional Corporation

5
6
7 By:


VINCENT COX
ELIZABETH L. SCHILKEN
Attorneys for Plaintiff
BAGDASARIAN PRODUCTIONS, LLC

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 2,935,726

Registered Mar. 29, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

ALVIN AND THE CHIPMUNKS

BAGDASARIAN PRODUCTIONS, LLC (CALI-
FORNIA LTD LIAB CO)
1192 EAST MOUNTAIN DR.
MONTECITO, CA 93108

FIRST USE 9-17-1983; IN COMMERCE 9-17-1983.

SER. NO. 76-505,140, FILED 4-9-2003.

FOR: ENTERTAINMENT SERVICES- NAMELY-
A SERIES OF TV CARTOONS, IN CLASS 41 (U.S.
CLS. 100, 101 AND 107).

THEODORE MCBRIDE, EXAMINING ATTORNEY

EXHIBIT A

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

United States Patent and Trademark Office

Reg. No. 3,429,855

Registered May 20, 2008

**TRADEMARK
PRINCIPAL REGISTER**

ALVIN AND THE CHIPMUNKS

BAGDASARIAN PRODUCTIONS, LLC (CALI-
FORNIA LTD LIAB CO)
1192 E. MOUNTAIN DRIVE
MONTECITO, CA 93108

FOR: MOTION PICTURE FILMS FEATURING ALL OF OR A COMBINATION OF THE FOLLOWING, COMEDY, DRAMA, ACTION, ADVENTURE OR ANIMATION; MOTION PICTURE FILMS FOR BROADCAST ON TELEVISION FEATURING ALL OF OR A COMBINATION OF THE FOLLOWING, COMEDY, DRAMA, ACTION, ADVENTURE OR ANIMATION; PRERECORDED AUDIO TAPES, AUDIO-VIDEO TAPES, AUDIO VIDEO CASSETTES, AUDIO VIDEO DISCS, AND DIGITAL VERSATILE DISCS FILMS FEATURING ALL OF OR A COMBINATION OF THE FOLLOWING MUSIC, COMEDY, DRAMA, ACTION, ADVENTURE, AND ANIMATION; COMPUTER PROGRAMS, NAMELY, SOFTWARE FOR BROADCASTING DIGITIZED VIDEO AND AUDIO MEDIA OVER A GLOBAL COMPUTER INFORMATION NETWORK; COMPUTER GAME EQUIPMENT CONTAINING MEMORY DEVICES, NAMELY, DISCS SOLD AS A UNIT WITH

COMPUTER GAME PROGRAMS FOR PLAYING A PARLOR-TYPE COMPUTER GAME; INTERACTIVE VIDEO GAME PROGRAMS AND COMPUTER GAME PROGRAMS; VIDEO GAME CARTRIDGES AND CASSETTES, VIDEO GAME JOYSTICKS, VIDEO GAME DISCS, VIDEO GAME INTERACTIVE REMOTE CONTROL UNITS; VIDEO AND COMPUTER GAME SOFTWARE, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 12-1-1992; IN COMMERCE 12-1-1992.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,864,434 AND 2,935,726.

SER. NO. 77-213,550, FILED 6-22-2007.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,421,801

Registered May 6, 2008

**TRADEMARK
PRINCIPAL REGISTER**

ALVIN AND THE CHIPMUNKS

BAGDASARIAN PRODUCTIONS, LLC (CALI-
FORNIA LTD LIAB CO)
1192 E. MOUNTAIN DRIVE
MONTECITO, CA 93108

FOR: CLOTHING FOR MEN, WOMEN AND
CHILDREN, NAMELY, SHIRTS, T-SHIRTS, SWEAT-
SHIRTS, JOGGING SUITS, TROUSERS, PANTS,
SHORTS, TANK TOPS, RAINWEAR, CLOTH BABY
BIBS, SKIRTS, BLOUSES, DRESSES, SUSPENDERS,
SWEATERS, JACKETS, COATS, RAINCOATS,
SNOW SUITS, TIES, ROBES, HATS, CAPS, SUNVI-
SORS, BELTS, SCARVES, SLEEPWEAR, PAJAMAS,
LINGERIE, UNDERWEAR, BOOTS, SHOES, SNEA-
KERS, SANDALS, BOOTIES, SLIPPER SOCKS,
SWIMWEAR AND MASQUERADE AND HALLOW-
EEN COSTUMES AND MASKS SOLD IN CONNEC-

TION THEREWITH, IN CLASS 25 (U.S. CLS. 22 AND
39).

FIRST USE 12-31-1983; IN COMMERCE 12-31-1983.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,864,434 AND
2,935,726.

SER. NO. 77-213,587, FILED 6-22-2007.

B. PARADEWELAI, EXAMINING ATTORNEY

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

United States Patent and Trademark Office

Reg. No. 3,425,740

Registered May 13, 2008

**TRADEMARK
PRINCIPAL REGISTER**

ALVIN AND THE CHIPMUNKS

BAGDASARIAN PRODUCTIONS, LLC (CALI-
FORNIA LTD LIAB CO)
1192 E. MOUNTAIN DRIVE
MONTECITO, CA 93108

FOR: ACTION FIGURES AND ACCESSORIES THEREFOR; PLUSH TOYS; BALLOONS; BATHTUB TOYS; RIDE-ON TOYS; EQUIPMENT SOLD AS A UNIT FOR PLAYING CARD GAMES; TOY VEHICLES; DOLLS; FLYING DISCS; HAND-HELD UNIT FOR PLAYING ELECTRONIC GAMES; GAME EQUIPMENT SOLD AS A UNIT FOR PLAYING A BOARD GAME, A CARD GAME, A MANIPULATIVE GAME, A PARLOR GAME AND AN ACTION TYPE TARGET GAME; STAND ALONE VIDEO OUTPUT GAME MACHINES; JIGSAW AND MANIPULATIVE PUZZLES; PAPER FACE MASKS; SKATEBOARDS; WATER SQUIRTING TOYS; BALLS, NAMELY, PLAYGROUND BALLS, SOCCER BALLS, BASEBALLS, BASKETBALLS; BASEBALL GLOVES; SWIMMING FLOATS FOR RECREATION-

AL USE; KICKBOARD FLOTATION DEVICES FOR RECREATIONAL USE; SURFBOARDS; SWIM BOARDS FOR RECREATIONAL USE; SWIM FINS; TOY BAKEWARE AND TOY COOKWARE; TOY BANKS; TOY SNOW GLOBES; AND CHRISTMAS TREE ORNAMENTS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

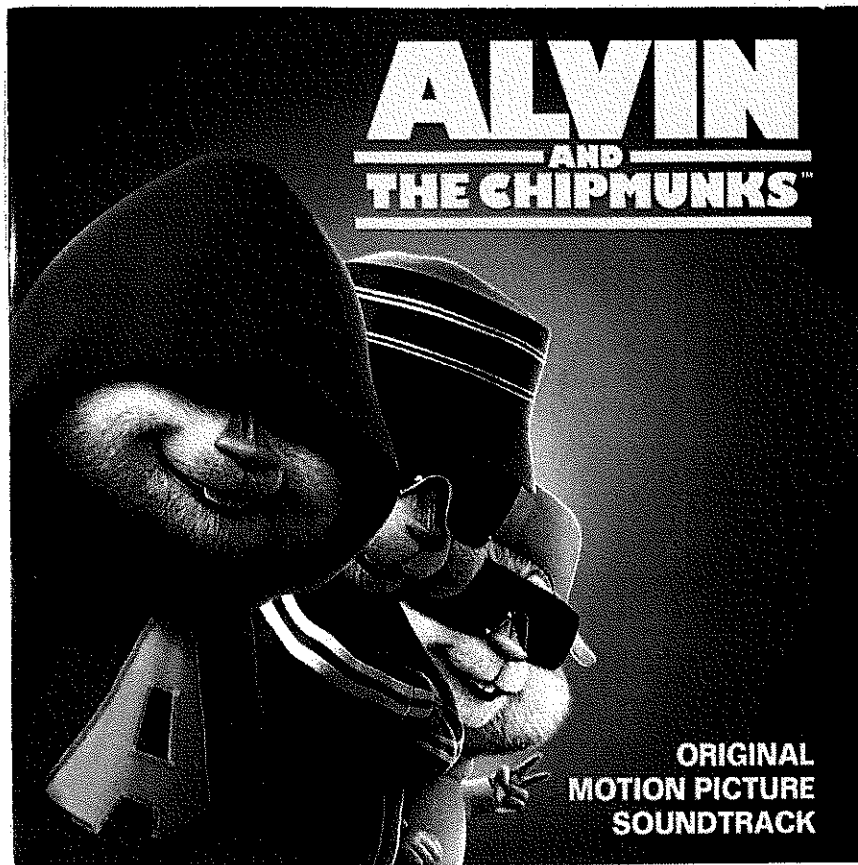
FIRST USE 12-31-1963; IN COMMERCE 12-31-1963.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,864,434 AND 2,935,726.

SER. NO. 77-213,609, FILED 6-22-2007.

JASON TURNER, EXAMINING ATTORNEY



1 BAD DAY
2 THE CHIPMUNK SONG (CHRISTMAS DON'T BE LATE) (DeeTown OG Mix)
3 FOLLOW ME NOW 4 HOW WE ROLL
5 WITCH DOCTOR 6 COME GET IT
7 THE CHIPMUNK SONG (CHRISTMAS DON'T BE LATE) (DeeTown Rock Mix)
8 FUNKYTOWN 9 GET YOU GOIN' 10 COAST 2 COAST
11 MESS AROUND 12 ONLY YOU (AND YOU ALONE)
13 AIN'T NO PARTY 14 GET MUNK'D
15 WITCH DOCTOR* 16 THE CHIPMUNK SONG (CHRISTMAS DON'T BE LATE)*
* Bonus Tracks • Classic Versions



FOX 2000 PICTURES AND REGENCY ENTERPRISES PRESENT A BAGDASARIAN COMPANY PRODUCTION "ALVIN AND THE CHIPMUNKS"
JASON LEE DAVID CROSS CAMERON RICHARDSON AND JUSTIN LONG MATTHEW GRAY GUBLER JESSE MCCARTNEY
MUSIC BY CHRISTOPHER YOUNG PRODUCED BY ALLI DUE THEODORE WRITTEN BY RHYTHM & HUES STUDIOS PRODUCED BY PETER BERGER A.C.E. EXECUTIVE PRODUCERS JULIANNE JORDAN
EXECUTIVE PRODUCERS PETER LYONS COLLISTER A.S.C. EXECUTIVE PRODUCERS KAREN ROSEWELL ARNON MILCHAM MICHELE IMPERATO STABILE STEVE WATERMAN
PRODUCED BY JANICE KAHMAN ROSS BAGDASARIAN BASED UPON CHARACTERS CREATED BY ROSS BAGDASARIAN SCREENPLAY BY JON VITTI AND WILL McHUBB & CHRIS VISCARINI
DIRECTED BY TIM HILL




Copyright © 2007 Razor & Tie Direct, LLC, PO Box 593, Tarrytown, New York, NY 10914. "Razor & Tie" and the Razor & Tie logo are registered trademarks of Razor & Tie Direct, LLC. All rights reserved. © 2007 Razor & Tie Direct, LLC and Twentieth Century Fox Film Corporation. All rights reserved. Motion Picture artwork, photos and Fox trademarks and logos TM and © 2007 Twentieth Century Fox Film Corporation. New Regency trademarks and logos TM and © 2007 Newbury Entertainment, LLC and Newbury Entertainment (USA), Inc. Alvin and the Chipmunks and Characters TM and © 2007 Regal Entertainment, LLC. All rights reserved. Printed in USA.

EXHIBIT B

RENDITIONS OF ALVIN & THE CHIPMUNKS



hide Link  **Preview All**  

Discussion Boards Settings

Hello, We have recommendations for you. (Not FREE 2-Day Shipping)
Robin's Amazon.com Today's Deals Gifts & Wish Lists Gift Cards

Shop All Departments

Search

Cart

MP3 Downloads

[Getting Started](#) [Top Downloads](#) [New & Future Releases](#) [Install The MP3 Downloader](#) [Amazon](#)

Instant Order Update for order.

You purchased this item on June 10, 2009. [View this](#)

RENDITIONS OF ALVIN & THE CHIPMUNKS



[See larger image](#)

[Share your own customer images](#)

Renditions Of Alvin & The Chipmunks

by [Calvin & The
Chipmunk Rock Stars](#)

Price: **\$8.99**


Album Savings: \$2.89
compared to buying all
songs

No customer reviews
yet. [Be the first.](#)

Original release date:
January 1, 2008

Format: [MP3, 256 kbps](#)
— plays on iPod® and all MP3 players

 **Buy MP3 album with 1-Click®**

 [Redeem a gift card or promotion
code & view balance](#)

Requires [Amazon MP3 Downloader](#)

Amazon MP3 Downloader



**Adds songs instantly to
iTunes or Windows Media
Player. [Get it free.](#)**

[Share with Friends](#)

 Preview All 				
	Song Title	Time	Price	
	1. Witch Doctor	3:02	\$0.99	
	2. Bad Day	3:36	\$0.99	
	3. Funkytown	3:39	\$0.99	
	4. How We Roll	3:56	\$0.99	
	5. The Chipmunk Song (Christmas Don't Be Late) (Dee Town Rock Mix)	2:16	\$0.99	
	6. Get You Goin'	3:20	\$0.99	
	7. Ain't No Party	2:46	\$0.99	
	8. Follow Me Now	3:12	\$0.99	
	9. Coast 2 Coast	2:46	\$0.99	
	10. Mess Around	3:22	\$0.99	
	11. Bad Day (Instrumental Guitar Version)	3:36	\$0.99	
	12. Follow Me Now (Instrumental Guitar Version)	3:10	\$0.99	

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Percy Anderson and the assigned discovery Magistrate Judge is Ralph Zarefsky.

The case number on all documents filed with the Court should read as follows:

CV09 - 4545 PA (RZx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BAGDASARIAN PRODUCTIONS, LLC, a
California limited liability company
PLAINTIFF(S)

v.

BIG EYE RECORDS, aka BIG EYE MUSIC,
ORCHARD ENTERPRISES NY, INC., a New York
corporation, and DOES 1-10, inclusive
DEFENDANT(S).

CASE NUMBER

CV09-4545 PA (RZx)

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Vincent Cox, whose address is Leopold, Petrich & Smith, 2049 Century Park East, Ste. 3110, Los Angeles, CA 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUN 24 2009

By: NATALIE LONGORIA
Deputy Clerk



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

1198

CONFIRMED COPY

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Bagdasarian Productions, LLC		DEFENDANTS Big Eye Records, aka Big Eye Music Orchard Enterprises NY, Inc.	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Vincent Cox, Leopold Petrich & Smith 2049 Century Park East, Suite 3110 Los Angeles, CA 90067		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:35%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:35%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify):
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No
 MONEY DEMANDED IN COMPLAINT: \$ 2,000,000.00

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. § 1114, § 1125, Federal Trademark Infringement, False Designation of Origin, Dilution

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) (405(g)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
---	--	--	---	--	---

CV09-4545

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Santa Barbara County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	New York, New York

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Santa Barbara County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Vincent Cox Date June 24, 2009

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))